U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: MAR 12 2009

LIN 07 083 52821

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Mai Johnson

for John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal as moot.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner initially claimed that he qualified for an exemption from the requirement of a job offer, and thus of a labor certification, in the national interest of the United States because he intended to practice medicine in the medically underserved area of Hope, Arkansas. The director denied the petition based on apparent irregularities in the petitioner's credentials.

U.S. Citizenship and Immigration Services (USCIS) records show that, when the petitioner filed the present petition on January 26, 2007, he was already the beneficiary of three approved petitions seeking the same classification for him. The receipt numbers for the three petitions are SRC 04 124 51926, filed March 2004 and approved November 2004; LIN 06 260 52534, filed September 2006 and approved November 2006; and LIN 06 200 50178, filed June 2006 and approved December 2006.

USCIS records further show that, in June 2006, the petitioner filed a Form I-485 adjustment application, receipt number LIN 06 200 50201. The director approved that application in February 2007, while the present petition was still pending. Because the alien has adjusted to lawful permanent resident (LPR) status, further pursuit of the matter at hand is moot. The petitioner seeks a benefit that he has already obtained.

On appeal, the petitioner argues that, after the petitioner adjusted status in February 2007, "the Director had no authority to adjudicate the petition as petition was moot. Since the director has issued a negative decision, an appeal is warranted." The director certainly would have been justified in considering the petition to be moot, but it does not follow that "the Director had no authority to adjudicate the petition" for that reason. We note that, when the director issued the notice of intent to deny the petition on April 3, 2008, the petitioner had already been a lawful permanent resident for more than a year. The petitioner, at any time prior to the decision, could have simply withdrawn his still-pending petition pursuant to 8 C.F.R. § 103.2(b)(6). This withdrawal would have foreclosed all further action on the petition, including denial. As the petitioner himself acknowledges, the petition became moot in early 2007. The petitioner, however, did not respond to the director's notice by calling the petition moot. Instead, he submitted a detailed response to the director's notice, with only a passing mention of his "grant of LPR" status. The petitioner thus gave every indication that he himself wished the director to proceed with the adjudication of the petition.

Because the alien has obtained LPR status, further pursuit of the matter at hand is moot.

We note that, after he filed the appeal in June 2008, the petitioner notified the AAO of a change of address in January 2009. The petitioner has moved from Hope, Arkansas to Amarillo, Texas, which is about 600 miles due west of Hope. Given that Hope is not within reasonable commuting distance of

Amarillo, it appears that the petitioner has abandoned his intention of working full-time in Hope, even though the petitioner's intent to work full-time in Hope was the supposed basis of the present petition.

ORDER: The appeal is dismissed, based on the alien's lawful permanent resident status.